IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3034 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SAVJIBHAI KANJIBHAI PATEL

Versus

BANASKANTHA JILLA MADHYASTHA SAHKARI BANK LTD.

Appearance:

1. Special Civil Application No. 3034 of 2003

MR TUSHAR MEHTA for Petitioner No. 1-3

MR HARIN P RAVAL for Respondent No. 1

RULE NOT RECD BACK for Respondent No. 2-47

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 20/12/2004

ORAL JUDGEMENT

1. The petitioners herein have preferred this petition in order to quash and set aside the order dated 28/01/2003 passed by the Gujarat State Co-operative Tribunal (for short, "the Tribunal") in Revision Application No.423 of 2002, at Annexure-A to the petition.

2. Respondent no.1 herein is a cooperative Society

registered under the provisions of the Gujarat Co-operative Societies Act, 1961 (for short, "the Act"). The District Collector initiated the process of election under the provisions of Chapter-XI-A of the Act read with the procedure laid down in the Gujarat Specified Cooperative Societies Election to Committees Rules, 1982. Respondents no.2 & 3 herein filed suit being Lavad Suit No.1176 of 2002 before the Board of Nominee, Mehsana, against respondent no.1 Bank, challenging the rejection of their nomination forms. The Board of Nominee passed an order, whereby status-quo was directed to be maintained by the parties.

3. By order dated 16/10/2002, at Annexure-D to the petition, the Board of Nominee vacated the order of status-quo. Respondents no.2 & 3 herein preferred suit being Lavad Suit No.1197 of 2002 for cancelling the election of the delegates along with an application for interim injunction below exh.6. The Board of Nominee by order dated 20/11/2002, at Annexure-E to the petition, allowed application below exh.6 and restrained the delegates from acting as delegates. The respondent Bank applied before the Board of Nominee for the suspension of its order. The Board of Nominee by order dated 20/11/2002 suspended its earlier order upto 27/11/2002. The delegates who were elected on 02/09/2002, including the present petitioners, challenged the said order by filing revision being Revision Application No.423 of 2002 before the Tribunal. The respondent Bank also preferred Revision Application No.424 of 2002 against the said order.

4. The Tribunal vide order dated 28/01/2003, at Annexure-A to the petition, confirmed the stay granted on 20/11/2002 by the Board of Nominee, Mehsana. Hence, this petition.

5. I have heard learned counsel for the parties and perused the relevant documents on record. As original suit was preferred in the year 2002, the term of three years might have been over, and therefore, the relief sought for restraining the respondents from representing the individual members on the Board of Directors of respondent no.1 Bank cannot be granted. This Court while admitting the matter had not granted any stay.

6. In above view of the matter, it would be appropriate if the suit pending before the Board of Nominee is heard and disposed of. Hence, the Board of Nominee is directed to hear the suit if it is not already heard and to dispose it of as expeditiously as possible

and preferably within a period of six months from the date of receipt of writ of this order. The parties are directed to abide by the order that may be passed by the Board of Nominee in the matter. With the above directions, the petition stands disposed of. Rule is discharged with no order as to costs.

(K. S. Jhaveri, J.)

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